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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,142	04/15/2002	Franz Wieth	LBP-PT016(19 355 su )	9820
3624 7590 01/25/2007 VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER PREVIL, DANIEL	
			ART UNIT	PAPER NUMBER
			2612	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/25/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/019,142

Applicant(s)

WIETH ET AL.

Examiner

Daniel Previl

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 7, 16 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-28 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7, 16, 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This action is responsive to communication filed on November 3, 2006.

#### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7, 16, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenander (US 6,206,165) in view of Pena (US 6,704,039).

Regarding claim 1, Lenander discloses a method to detect and reward the return of shopping carts to collection points at a shopping center (abstract) wherein during a purchase, a first signal A is generated (after completion of the purchases, the stationary electronic device 18 will send a recording signal with respect to the purchases having taken place) (col. 3, lines 39-56), when the shopping cart is returned to a collection, a second signal B is generated (this recording via an electronic indicator 17 initiate an optical and/or acoustical signal with the information that the returning of the service cart has occasioned a reward) (col. 3, lines 57-65); wherein the two signals A and B are correlated to issue a bonus (col. 3, lines 39-65; col. 4, lines 37-56); comprising: the step of correlating the first signal A with the second signal B (col. 3, lines 39-65).

Lenander discloses every feature of the claimed invention but fails to explicitly disclose the step of assigning the first signal A to a certain customer by identifying or individualizing the customer by optical recognition of physical characteristics of the customer.

However, Pena discloses the step of assigning the first signal A to a certain customer by identifying or individualizing the customer by optical recognition of physical characteristics of the customer (read by OCR, the purchaser's photo would be taken at the time of the purchase) (col. 23, line 12 and lines 46-47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Pena's recognition of physical characteristic of the customer in Lenander. Doing so would modify Lenander's system with Pena's recognition of physical characteristic of the customer in order to clearly identify the purchaser to accurately receive his/her rewards; thereby preventing unauthorized person from receiving the reward so improving the efficiency of the system.

Regarding claim 2, Lenander discloses the step of generating the second signal B when any shopping cart is returned to a collection point (col. 3, lines 57-65).

Regarding claim 3, Lenander discloses the step of generating the second signal B when the returned shopping cart had previously been located outside of the

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collection (outdoor of the collection station) for longer than a preset time period (col. 2, lines 2-24).

Regarding claim 4, Lenander discloses the second signal when the shopping cart had been previously used to go shopping (col. 3, lines 57-65).

Regarding claim 7, the above combination discloses all the limitations in claim 1 and Pena further discloses optical recognition system (OCR in col. 23, line 12).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Pena's optical recognition in Lenander. Doing so would modify Lenander's system with Pena's optical recognition in order to clearly identify the purchaser to accurately receive his/her rewards; thereby preventing unauthorized person from receiving the reward so improving the efficiency of the system.

Regarding claim 16, Lenander discloses a system for detecting and rewarding the returning of shopping carts to a collection point (abstract) comprising: a first detection means (electronic signal director 20) generating the first signal A (after completion of the purchases, the stationary electronic device 18 will send a recording signal with respect to the purchases having taken place), a second detection means (electronic indicator 17) generating a second signal when a shopping cart is returned to a collection point and a data processing unit (electronic device 18) to correlate the two signals A and B to issue a bonus (this recording via an electronic indicator 17 initiate an

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optical and/or acoustical signal with the information that the returning of the service cart has occasioned a reward) (col. 3, lines 39-65; col. 4, lines 37-56)

Lenander discloses every feature of the claimed invention but fails to explicitly disclose the step of identifying or individualizing a particular customer by optical recognition of physical characteristics of the customer when generating the first signal A.

However, Pena discloses the step of identifying or individualizing a particular customer by optical recognition of physical characteristics of the customer when generating the first signal A (read by OCR, the purchaser's photo would be taken at the time of the purchase) (col. 23, line 12 and lines 46-47).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Pena's recognition of physical characteristic of the customer in Lenander. Doing so would modify Lenander's system with Pena's recognition of physical characteristic of the customer in order to clearly identify the purchaser to accurately receive his/her rewards; thereby preventing unauthorized person from receiving the reward so improving the efficiency of the system.

Regarding claim 22, Lenander discloses a second detection means (electronic indicator 17) for recognizing whether the returned shopping cart has been stored into the shopping cart stacked row provided at the collection point within a prescribed tolerance (col. 1, lines 1-23).

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3. Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lenander in view of Pena and further in view of Storey (US 6,578,012).

Regarding claims 29-30, Lenander and Pena disclose all the limitations in claims 1, 16 but fail to specify that a status of the bonus is viewable by the customer through an Internet connector.

However, Storey discloses a status of the bonus is viewable by the customer through an Internet connector (col. 2, lines 23-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Storey's bonus through Internet connector in Lenander and Pena. Doing so would modify Lenander and Pena's system with Storey's bonus through Internet connector in order to check accurately the reward over the Internet, thereby improving the efficiency of the of the system.

***Allowable Subject Matter***

4. Claims 23-28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: In combination with all the limitations in the claims, the prior arts fail to teach or

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make obvious: the first detection means includes an optical signal transmitter located in the shopping center and the second detection means includes a second optical signal transmitter at the collection point and a number of optical detectors that cooperate with the first and the second signal transmitters said detectors being attached to the shopping carts and being provided for the generation signals A and B.

### ***Response to Arguments***

6. Applicant's arguments filed on November 03, 2006 have been fully considered but they are not persuasive.

Regarding Applicant's arguments on page 9 "Pena neither discloses nor suggests assigning a first signal to a certain customer by identifying or individualizing the customer by optical recognition of physical characteristics of the customer". The examiner respectfully disagrees with the Applicant because Pena clearly discloses the purchaser's photo would be taken at the time of purchase (col. 23, lines 47-48). Doing so would identify or individualize the purchaser by optical recognition of physical characteristics of the purchaser.

7. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re*



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*Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, references are directed to the same field of endeavor, therefore combining the teachings of the references would produce the claimed invention.

For at least the above reason, the rejection of claims 1-4, 7, 16, 22 is sustained.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Smith (US 3,882,982) discloses a method and apparatus for encouraging return of shopping carts.

Peggs (US 3,897,863) discloses a cart reception and reward mechanism.

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Unger (US 4,470,495) discloses a device for encouraging the return of shopping carts.

Havens (US 4,868,544) discloses a shopping cart retrieval system.

DiPaolo et al. (US 5,402,106) discloses a shopping cart theft prevention system.

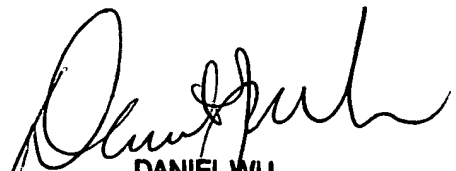
Burke (US 5,848,399) discloses a computer system for allowing a consumer to purchase packaged goods at home.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Previl whose telephone number is 571 272 2971. The examiner can normally be reached on Monday-Thursday. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel WU can be reached on 571 272 2964. The fax phone number for the organization where this application or proceeding is assigned is 571 273 8300 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571 272 2600.

Daniel Previl  
Examiner  
Art Unit 2632

  
DANIEL WU  
SUPERVISORY PATENT EXAMINER  
01/21/07